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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,641	06/08/2001	Juan Luis Benitez-Vargas		9339

7590 01/22/2008  
Juan Luis Benitez-Vargas  
725 N. Alfred St.  
#2  
West Hollywood, CA 90069

EXAMINER

MACK, SYLVIA

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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01/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/877,641

Applicant(s)

BENITEZ-VARGAS, JUAN LUIS

Examiner

Sylvia Mack

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 – 4** are rejected under 35 U.S.C. 102(b) as being anticipated by Rydbeck (US Pat. 5,590,417).

Regarding claim 1, Rydbeck discloses a system for hands-free wireless cellular phone use (Abstract) comprising:  
an earset including a ear hanger (headset 110, ear clip 160 [col. 3, lines 28 – 38, Fig.7]) an earphone with volume control (speaker 140, volume control arrangement [col. 3, lines 3 - 8, lines 65 -67, col. 4, lines 1 - 7, lines 37 - 47, Fig. 7]),  
a microphone (microphone 150, Fig. 7) designed to be positioned over a user's mouth (col. 3, lines 3 - 8, col. 4, lines 66 – 67, col. 5, lines 1 – 11, Fig. 7),  
and a receptor/transmitter unit capable of receiving and transmitting signals of a specific wavelength (FM receiver 210, FM transmitter 205 communicate over short distance [col. 3, lines 39 – 48, Fig. 4a]),  
the receptor/transmitter unit electronically connected to the earphone and microphone (FM receiver 210, coupled, via audio amplifier 220, to speaker 140 and FM transmitter 205 coupled to microphone 150, [col. 3, lines 39 – 48, lines 65 – 67, col. 4, lines 1 – 7,

Fig. 4a] or Transceiver 207 coupled to microphone 150 [col. 4, lines 66 – 67, col. 5, lines 1 – 11, Fig. 4b))

the earset designed to be worn over a user's ear, the earphone designed to be positioned over an ear of a user (ear clip 160, col. 3, lines 28 – 38, Fig. 7)

(b) a cellular phone (portable telephone unit 100 [col. 2, lines 56 - 67, col. 3, lines 1 – 2, Fig. 2c]);

(c) a universal plug (transceiver 255, Fig. 6) electronically connected to the cellular phone (portable telephone unit 100 [col. 5, lines 56 – 67, col. 6, lines 1 – 3, Fig. 2c]) capable of receiving and transmitting signals of a specific wavelength (col. 3, lines 39 – 48);

(d) wherein a user would be able to use the earset to communicate with another individual through the cellular phone (col. 1, lines 46 -56).

Regarding claim 2, as applied to claim 1, Rydbeck further discloses wherein the receptor/transmitter unit and the universal plug would be capable of using the same wavelength (col. 3, lines 39 - 48).

Regarding claims 3 and 4, as applied to claim 2, Rydbeck further discloses wherein words spoken into the microphone of the earset (headset 110, Fig. 2c) or words spoken by another individual in communication the cellular phone (portable telephone unit, 100, Fig. 2c) are converted to radio signals of a specific wavelength (col. 3, lines 39 – 480) wherein the signals are then wherein the signals are then transmitted and amplified by the receptor/transmitter unit (FM transmitter 205, Fig. 4a) unit in the earset (headset) to the universal plug (transceiver 255, Fig. 6), wherein the universal plug

(transceiver) then converts the radio signals transmitted from the receptor/transmitter unit in the earset (headset) into audible amplified communication, allowing communication to the another individual who would in telephonic communication with a person using the present invention (The transceiver in the portable telephone unit is similar to the transceiver in the headset and performs accordingly [col. 3, lines 65 – 67, col. 4, lines 1 – 7, lines 66 – 67, col. 5, lines 1 – 11, col. 5, lines 56 – 67, col. 6, lines 1 – 4, Fig. 4b).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent is cited to further show the state of the art with respect to clips and bookmarks in general:

US Pat. No. 6,885,848 to Lee

US Pat. No. 6,078,825 to Hahn

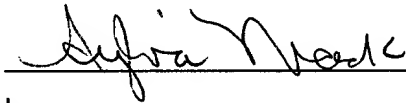
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sylvia Mack whose telephone number is (571) 270-1212. The examiner can normally be reached Monday – Friday from 8:00 am to 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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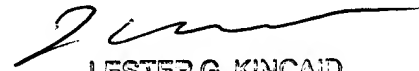
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Signature: \_\_\_\_\_



Sylvia Mack

Examiner / Art Unit 2617



LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER